

**The United States Patent and Trademark Office
On Appeal From The Examiner To The Board
of Patent Appeals and Interferences**

In re Application of: Seemant (nmi) Choudhary et al.
Serial No.: 10/052,886
Filing Date: January 18, 2002
Group Art Unit: 2613
Examiner: Agustin Bello
Title: System and Method for Multi-Level Phase Modulated
Communication

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Reply Brief

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41(a)(1) in response to the Examiner's Answer electronically sent September 21, 2007.

Argument

In response to the Examiner's arguments in the Examiner's Answer, Appellants respond as follows. Specifically, Appellants will address the arguments presented in the "Response to Argument" section of the Examiner's Answer.

In this section, the Examiner addresses Appellants' arguments relating to the following limitation of Claim 12: "combining an ingress traffic signal with the polarized local signal to generate a combined signal, wherein the ingress traffic signal is compensated for polarization mode dispersion." The Examiner asserts that the requirement that the ingress signal be compensated for polarization mode dispersion (PMD) is part of the "combining" step of this limitation. Applicants respectfully submit that this is an incorrect reading of this claim based on the case law (cited by the Examiner) that requires that the claims be interpreted in light of the disclosure. As is made clear in the present application, as noted in the Appeal Brief, this PMD compensation of the ingress signal is not what is being done in the combining step:

In this embodiment [Figure 6] it is assumed that the received light at first splitter 62 has already been aligned with the I component of the signal, that is, the received signal is in transverse electric (TE) polarization. This may be performed by, for example, an automatic polarization controller (APC) device, or other suitable devices. The signal received by first splitter 62 may also be filtered with a polarization mode dispersion compensator (PMDC) device along with the automatic polarization controller (APC).

(Page 14, lines 5-10). Thus, the ingress signal is compensated for PMD before it is combined with the polarized local signal and then split.

Furthermore, this interpretation is clear from the language of Claim 12 since that claim recites that the *ingress traffic signal* is compensated for polarization mode dispersion, while the components that combine, split and detect (which the Examiner matches to the components of *Noe's* polarization diversity receiver) are not performing any compensation operations on the ingress traffic signal alone (they combine this signal with the local signal and then split the resulting *combined signal*).

The Examiner also argues that *Noe* meets all the structural requirements of the claim, and asserts that since there is no structural difference, Appellants arguments fail. However, Claim 12 is a method claim. It recites that the ingress traffic signal is compensated for polarization mode dispersion. This step is not disclosed as being performed in *Noe*, and thus this reference does not disclose each and every limitation of Claim 12.

Finally, the Examiner makes a number of statements on pages 10 and 11 of the Examiner's Answer regarding the prior art and what *Noe* discloses. Again, however, Applicants are not sure of the relevance of this discussion. *Noe* does not disclose compensating the *ingress traffic signal* for PMD (the ingress signal, *not* the combined signal), and this is not disputed in the Examiner's comments.

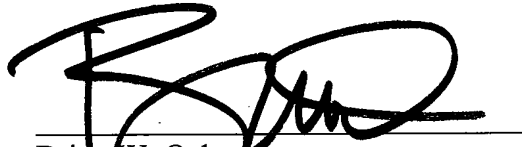
For these reasons and the reasons provided in Appellants' Appeal Brief, Appellants respectfully request allowance of all pending claims.

Conclusion

Appellants have demonstrated that the present invention, as claimed, complies with all statutory requirements for a U.S. Patent. Therefore, Appellants respectfully request the Board to reverse the final rejection of the Examiner and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

Appellants believe no fees are due. Nonetheless, the Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
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